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Jury in Shooting of Libyan Begins

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Special to The New York Times.

FORT COLLINS, Colo. Dec. 2 — After nearly three weeks of testimony from 32 witnesses, the case against Eugene A. Tafoya, the former Green Beret accused of shooting of a Libyan student here last year, was presented to the Larimer County jury late this afternoon.

The panel must now decide whether to believe the prosecution's contention that Mr. Tafoya is a cold-blooded, if burning, hired killer, or what Walter Gerash, the defense attorney, calls a "forgotten patriot," who thought he was on a secret assignment for the Central Intelligence Agency when, posing as a job recruiter, he visited the apartment of Faisal Zagallai in October 1980.

From the beginning, the case against Mr. Tafoya, 48 years old, has been set against a background of international espionage. There are suspicions that the decorated Vietnam war veteran was in fact acting on behalf of the Government of Muammar el-Qaddafi, the ruler of Libya, and was acting under orders from Edwin P. Wilson, a former American intelligence agent who is now a fugitive in that militant Arab nation in North Africa.

Says Libyan Had a Pistol

Mr. Zagallai, who was wounded in the head by two shots from a .22-caliber pistol belonging to Mr. Tafoya, has been described as an outspoken critic of the Qaddafi government who had been marked for assassination. Mr. Zagallai,

36, who at the time was a student at Colorado State University here, survived the shooting but was blinded in his right eye.

Mr. Tafoya testified that he fired in self-defense while struggling with Mr. Zagallai, who Mr. Tafoya said pulled a pistol on him first. Mr. Tafoya said he had not intended to shoot Mr. Zagallai, rather that he had been asked by an intelligence agent identified only as John to warn the student to stop making "broadcasts" opposed to Egyptian-Israeli detente.

"There is justice to be done for this soldier left out in the cold, this forgotten patriot who has been here since April waiting your decision," Mr. Gerash told the jury in closing arguments today.

At another point, Mr. Gerash's voice cracked and he wiped tears from his eyes as he read a citation Mr. Tafoya had received in Vietnam, where he was awarded a bronze star for valor.

C.I.A. Denied Tafoya Links

Prosecutors called Mr. Tafoya's account of the shooting a fabrication, and asserted that he had in fact sought work as an assassin. Among the evidence introduced by the prosecution was a tape recording containing a statement attributed to Mr. Tafoya when he was looking for a job with either the intelligence agency or a foreign government. "Do you know anybody who needs to quit breathing?" he was heard on the tape asking an associate.

In the trial, the prosecution offered evidence from the intelligence agency denying that Mr. Tafoya had ever worked for the agency.

George Marling, the chief of records for the intelligence agency, testified that the agency had no record of employment of Mr. Tafoya. However, Mr. Marling acknowledged that it was his agency's policy to deny any classified operation.

As a result, there has been much interest here about what was not said in testimony, rather than what was.

For example, despite the fact that Mr. Tafoya has been charged by the police with conspiracy to commit first-degree murder, the prosecutor has offered no specific testimony suggesting who might have actually ordered Mr. Tafoya to kill the Libyan student.

Articles on Ties to Wilson

Articles published before the trial, and remarks by prosecutors in private sessions in the judge's chambers, suggested that the authorities believed Mr. Tafoya was closely linked to Mr. Wilson.

Its Deliberations

Mr. Wilson, who has been indicted by a Federal grand jury on charges of illegally shipping explosives to Libya, is living in Libya, apparently working for Colonel Qaddafi.

Among other things, it has been reported that neighbors of a country estate in England owned by Mr. Wilson identified Mr. Tafoya as having stayed there some weeks after the shooting.

There have been only passing references to Mr. Wilson in the trial. Stuart Van Meveren, the tall, square-jawed county prosecutor, said his office had decided to sharply limit the evidence in the trial to the circumstances surrounding the actual shooting.

"Mr. Wilson is not on trial here," Mr. Van Meveren said. "Besides, a lot of the material we have is only so much conjecture."

At today's proceedings, Judge J. Robert Miller instructed the nine women and three men of the jury that, based on the evidence, they could return verdicts of guilty or not guilty on any of four separate charges: attempted first-degree murder, conspiracy to commit first-degree murder, attempted second-degree murder or third-degree assault.

The visitors' gallery has been packed each day in the courtroom on the second floor of the Larimer County Courthouse in downtown Fort Collins, a city of 68,000 people.

There have been some unusual security measures for the trial. People entering the courtroom must pass through a metal detector, and a squad of sheriff's deputies armed with shotguns, automatic weapons and gas masks has been kept on standby inside the courthouse.

The police have also borrowed two dogs from nearby Warren Air Force Base, in Cheyenne, Wyo., to sniff out explosives. The police started out with one, but the first, a German shepherd named Charley, slipped on ice while patrolling the courthouse roof Monday and fell two stories, breaking its leg and several teeth.